

CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

O.A NO.060/00712/2014

Date of decision: 7.5.2015

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

...

Mrs. Poonam Sharma, Inspector Income Tax, Office of Commissioner of Income Tax (TDS) Chandigarh.

BY ADVOCATE: Shri Madan Mohan

...APPLICANT

VERSUS

1. Union of India through Secretary Department of Finance (Revenue) Govt. of India, New Delhi.
2. Chief Commissioner of Income Tax, NWR, Sector 17, Chandigarh.
3. Commissioner of Income Tax (TDS), C.R. Building, Second Floor Sector 17, Chandigarh.
4. Commissioner of Income Tax-II, SCO 46-47, Sector-17A, Chandigarh.
5. Zonal Accounts Officer, CBDT, CR Building, Sector-17, Chandigarh.
6. The Income Tax Officer (HQ. Admn.), O/o Chief Commissioner of Income Tax, NW Region, Sector-17-E, Chandigarh.



...RESPONDENTS

BY ADVOCATES: Shri Sanjay Goyal (R-1-4 & 6) Shri K.K. Thakur (R-5).

ORDER

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-

The present Original Application is directed against letters dated 16.05.2013, 21/25.02.2014, 13.03.2014 and 10.06.2014 with a further prayer to direct respondent no.4 to accept and implement order dated 31.12.2012 passed by respondent no.2 read with order dated 05.02.2013 passed by respondent no.3 with all consequential benefits along with 18% interest per annum on the arrears to be worked out by the respondents.


2. The facts which led to the filing of the present Original Application, are that the applicant joined respondent-department as Stenographer Grade-III on 20.07.1997 whereas one Shri Sukhwant Singh, who is junior to the applicant, joined on 04.09.1997. Both of them were considered for promotion to the post of Stenographer Grade-II in a meeting of DPC and pursuant to the recommendations of the DPC an order in favour of Shri Sukhwant Singh was issued and he joined as such on the same day whereas in the case of the applicant orders were issued on 02.07.2003 and he also joined on the same day. Considering that Shri Sukhwant Singh, who is junior to the applicant is getting higher pay than applicant, he submitted a representation to respondent no.2 on 20.07.2012 for stepping up of her pay, which was considered and accepted by respondent no.2 vide communication dated 31.12.2012. Respondent no.3 also accorded sanction for fixing his pay w.e.f. 30.06.2003 by removing the anomaly. However, on an objection being raised by the Audit

Department both the approvals accorded by respondents no.2 & 3, i.e., Annexure A-3 and Annexure A-4 were withheld and the applicant was informed that stepping up of pay cannot be accorded in his case. Hence the Original Application.

3. The respondents contested the claim of applicant by filing detailed written statement wherein they submitted that since Shri Sukhwant Singh joined on 30.06.2013 and by virtue of the revised pay scales implemented w.e.f. 1.1.2006 he became entitled for grant of one increment in the un-revised pay scale and for that reason his pay is more than that of applicant, who joined on 02.07.2003, and in terms of FR 22 (1)(a)(1) the applicant cannot claim parity with him.

4. The applicant has filed a rejoinder, wherein he contradicted the averments made in rejoinder.

5. Shri Madan Mohan, learned counsel appearing on behalf of applicant vehemently argued that once applicant and Sukhwant Singh were considered in the same DPC for promotion to the post of Stenographer Grade-II and their names were recommended, merely because in the case of the applicant the order was issued later than Shri Sukhwant Singh will not debar him from getting the same benefit, which was granted to Sukhwant Singh. To elaborate his argument he submitted that once they were found suitable and promoted by the same DPC then there could not be any discrimination for grant of monetary benefits attached to that post. Had the respondents issued promotion order in furtherance to the



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recommendations of the DPC in favour of the applicant on the same day as issued in the case of Sukhwant Singh he would have also joined on the same day and would have been entitled to one increment as was granted to Sukhwant Singh. The respondents tried to justify their stand by submitting that since he joined later than Sukhwant Singh, therefore, he is not entitled to the increment granted Sukhwant Singh under the Revised Pay Rules. By filing Affidavit they admitted that both were considered in the DPC held in 2003 and there is no explanation why promotion order in favour of applicant was not issued as in the case of Sukhwant Singh on 30.06.2003.

6. We have given our thoughtful consideration to the entire matter and gone through the pleadings available on record with the able assistance of the learned counsel appearing for the respective parties.

7. The sole contention at the hands of the applicant is that he cannot be discriminated for grant of benefit attached to the promotional post on the ground that he joined later than Sukhwant Singh, who is junior to the applicant. Concededly, both were considered for promotion to the post of Stenographer Grade-II by the DPC on 30.06.2003 but for the reasons best known to them in the case of applicant the promotion order was issued on 02.07.2003 and in case of Sukhwant Singh order was issued on 30.06.2003 and he was allowed to join on the same day and in terms of Revised Pay Rules, 2008 he was entitled for one increment in the pre-revised pay scale, which was denied to the applicant because he joined

after 01.07.2003. Suffice to record here that nothing is pointed out by the respondents as to why the order had not been issued in favour of applicant prior to 01.07.2003 as issued in the case of Sukhwant Singh. Had the same been issued he would also have enjoyed the same benefit as accorded in the case of Sukhwant Singh. The respondents could have passed an order on 02.07.2003 as they have issued but with effect from an earlier date when others were allowed to join so he cannot be deprived of the benefit legally due to him, which resulted in anomaly in pay.

8. Considering the hardship in the given case, which has also been accepted by the respondents by issuing Annexures A-3 and A-4, the decision taken by the respondents subsequently reviewing their orders is not sustainable. Accordingly, the same is quashed and set aside. The respondents are directed to grant applicant the benefit of stepping up at par with Sukhwant Singh in terms of Annexure A-3 and A-4 orders.

9. Let the above exercise be carried out within a period of two months from the date of receipt of a certified copy of this order.

10. The OA stands allowed in the aforesaid terms.

11. No costs.

(SANJEEV KAUSHIK)
MEMBER (J)

(UDAY KUMAR VARMA)
MEMBER (A)

Place: Chandigarh

Dated: 7.5.2015
'San.'

Certified True Copy/प्रमाणित सत्य प्रतिलिपि

अनुभाग अधिकारी (न्याय) Section Officer (Jud.)

केन्द्रीय प्रशासनिक अधिकरण

Central Administrative Tribunal

चण्डीगढ़ पीठ/ Chandigarh Bench

चण्डीगढ़ / Chandigarh

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